



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/298,505	04/23/1999	LYNN HOLM-BLAGG	06042-0110	2096

20350 7590 05/20/2003

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

FISCHER, ANDREW J

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 3627

DETAILED ACTION

Acknowledgments

1. The Examiner acknowledges the "Communication" filed February 11, 2003 (Paper No. 18). Because of *all* the evidence submitted by Applicants as noted in their Communication, it is apparent that Applicants timely responded to the restriction requirement (Paper No. 16) at least by June 7, 2002 (see e.g. photocopy of the postcard submitted with Paper No. 18 stamped by OIPE with the date of June 7, 2002). The prosecution of this application therefore continues.
2. The "Response to Restriction Requirement" filed February 11, 2003 (Paper No. 19) is also acknowledged. Applicants' response indicates they elect "Group I" and "Species A3 represented by Figure 7A with traverse." With respect to the Election of Species as stated in Paper No. 16, the Examiner notes that Paragraph 11 expressly stated in part:

Applicant is advised that a reply to this requirement *must include* an identification of the species that is elected consonant with this requirement, *and a listing of all claims readable thereon*, including any claims subsequently added now in or any future amendment. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election. The chosen species must at least be capable of being used together with the chosen invention above (Inventions I, II, or III). [Emphasis added.]

Notice of Non-Responsive Reply


3. The reply filed on February 11, 2003 (Paper No. 19) is not fully responsive to the prior Office Action (Paper No. 16) because the response did not include a listing of all claims readable upon the elected species. In order to alleviate disagreements that inevitably arises between

Art Unit: 3627

Applicants and the Examiner as to which claims read on the elected species, the Examiner considers Applicant response nonresponsive. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, Applicants are given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

4. Regarding Applicants' traversal of the Restriction and Election of Species, the Examiner highly recommends Applicants review MPEP §800 for what constitutes a proper traversal prior to their response to this Office Action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Fischer whose telephone number is (703) 305-0292.


ANDREW J. FISCHER
PATENT EXAMINER

AJF
May 17, 2003